

### **REMARKS**

Claims 49-85 are currently pending in this application. *Solely* in an effort to advance prosecution of this application (see Section III below), claims 57-72, 76-78, 80-82 and 84 have been cancelled herein as being drawn to non-elected inventions, and claim 73 has been amended herein to delete recitation of SEQ ID NO:15. No new matter has been added by way of this amendment, and Applicants hereby reserve the right to pursue cancelled subject matter in a future divisional or continuation application.

Following entry of this amendment, claims 49-56, 73-75, 79, 83 and 85 will be pending in this application.

#### **I. Revocation and Power of Attorney**

Applicants will be submitting a Revocation, Power of Attorney, and Statement Under 37 C.F.R. § 3.73(b) within the next week. As such, please address all future correspondence to JONES DAY at Customer Number 20583 and reference new Attorney Docket No. 10271-159-999.

#### **II. Telephonic Interview**

Applicants thank the Examiner for the telephonic interview held on January 10, 2007 with Applicants' representatives, Jennifer Chheda and Tamera Pertmer, in which the Office Action (Restriction Requirement) mailed November 20, 2006 was discussed. The Examiner agreed to re-mail the Restriction Requirement (and restart the period for response) in order to clarify that the restriction was to allegedly patentably distinct inventions and not a requirement for a sequence species election. The new Office Action was mailed January 25, 2007 and is the subject of the current response.

#### **III. Restriction Requirement**

In the Office Action mailed January 25, 2007, the Examiner required an election under 35 U.S.C. § 121 to "a single Sequence identified by a specific identification number or set" and stated that "[t]his requirement is not to be construed as a requirement for an election

of species, since each of the sequence(s) recited constitutes an independent and patentably distinct invention" (page 2; emphasis in text). The Examiner contends that "the combinations of sequences listed in claims 56-73 and 78-84 are independent and distinct because each sequence or set of sequences represents a different antibody and requires a separate search for each SEQ ID#" (*Id.*).

Applicants respectfully traverse this ground of rejection.

For essentially the reasons of record, Applicants maintain that it is not necessary to search each individual amino acid sequence combination listed, as asserted by the Examiner. Instead, a single search would identify any relevant art pertaining to a method of preventing or treating a respiratory syncytial virus (RSV) infection or a RSV-induced disease in a subject comprising administering to said subject an immunoglobulin with (1) a  $K_a$  of at least  $10^{-10} \text{ M}^{-1}$  and (2) specifically binds to a RSV antigen, regardless of the particular amino acid sequence of the antibody, variable region, or a CDR thereof. Thus, Applicants submit it would not be a serious burden on the Examiner to search and examine the claimed subject matter.

However, *solely* in an effort to advance prosecution of this application, Applicants hereby elect to prosecute the AFFF (clone 22) antibody having the CDR sequence combination recited in claim 73, as amended herein, and the VH and VL domain combination recited in claim 83.

In addition, and for the *sole purpose* of advancing prosecution of this application, claims 57-72, 76-78, 80-82 and 84 have been cancelled herein as being drawn to non-elected inventions, and claim 73 has been amended herein to delete recitation of SEQ ID NO:15.

#### **IV. Conclusion**

If the Examiner has any questions concerning this Response, he is invited to telephone the undersigned at the number listed below.

Applicants believe no fees are due in connection with this Response. However, if there are any other fees due, please charge them to Deposit Account 50-3013. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for, such an

U.S. Serial No. 10/657,363  
Response to Restriction Requirement  
February 26, 2007  
Page 7 of 7

extension is requested and the fee should be charged to our Deposit Account. Also, please charge any fees underpaid or credit any fees overpaid to the same Deposit Account.

Respectfully submitted,



Date:

Jan. 26, 2007

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